

CODE
CITY OF HAMPTON, VIRGINIA
Published by Order of the City Council
Republished January 2008
Codified through
Ordinance No. 08-0010, adopted March 26, 2008.
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Chapter 14 FIRE PREVENTION AND PROTECTION*

*Charter references: Division of fire of department of public safety, §§ 9.01, 9.02.

Cross references: Examinations to determine qualifications of firemen, § 2-107; criminal history investigation of applicants for position of fireman, § 2-108; building and development regulations, Ch. 9; removal of power wires during fire, § 9-68; authority of city to attach its fire alarm circuits and signal wires on power and telephone poles, § 9-69; requirement of site plan ordinance that buildings and structures be assessible [accessible] to fire and other emergency vehicles, § 9-166(3); fire-fighting equipment in mobile home parks, § 20-52; calling fire-fighting apparatus without cause or malicious activation of fire alarm in public building, § 24-8; smoking, Ch. 30.5; fire hydrants in subdivisions, § 35-81.

State law references: Fire protection, Code of Virginia, title 27; authority of city to make regulations for purpose of guarding against danger of fire, § 15.1-15.

Article I. In General

Sec. 14-1. Promulgation of bylaws, rules, etc., for certain volunteer fire companies and rescue squads.

The city manager, after having received the written recommendation of the fire chief and the advisory committee of the volunteer fire companies, shall be authorized to promulgate constitutions, bylaws, rules and regulations for the Buckroe, Fox Hill, Hampton, Northampton, Phoebus and Wythe volunteer fire companies and the Buckroe, Northampton, Phoebus and Wythe rescue squads.

(Code 1964, § 18-30; Ord. No. 452; Ord. No. 757, § 18-30, 7-27-83)

State law references: Fire departments and fire companies, Code of Virginia, § 27-6.1 et seq.

Sec. 14-1.1. Participation by minors in activities of volunteer fire companies.

(a) Any minor sixteen (16) years of age or older, with parental or guardian approval, is authorized to work with or participate fully in all activities of a volunteer fire company, provided such person has attained certification under National Fire Protection Association 1001, level one, fire fighter standards, as administered by the department of fire programs. Any trainer or instructor of any such minor or any member of a paid or volunteer fire company who supervises

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any such minor at the scene of any emergency shall be exempt from the provisions of § 40.1-103 of the Code of Virginia.

(b) Notwithstanding the above provisions of this section, no person under eighteen (18) years of age shall be authorized or permitted to operate any emergency vehicle.

(Ord. No. 739, 1-12-83)

Sec. 14-2. General authority of fire marshal and assistants to arrest, procure and serve warrants and issue summons.

(a) The fire marshal, and such of his assistants as are designated by the city manager, shall have the authority to arrest, to procure and serve warrants of arrest and to issue summons, in the manner authorized by general law, for violation of local fire prevention and fire safety and related ordinances.

(b) The authority granted in this section shall not be exercised by the fire marshal or any assistant until such person has satisfactorily completed a training course designed specifically for local fire marshals and their assistants, which course shall be approved by the Virginia State Fire Services Commission.

(c) The authority granted in this section may only be exercised when the officer is in uniform and is serving a designated tour of duty.

(d) The authority granted in this section shall not be construed to authorize the fire marshal or his assistants to wear or carry firearms.

(Code 1964, § 18-23.1; Ord. No. 453; Ord. No. 514; Ord. No. 634, 10-24-79)

State law references: Similar provisions, Code of Virginia, § 27-34.2.

Sec. 14-3. Police powers of fire marshal and assistants as to investigations and prosecutions involving certain offenses.

(a) The fire marshal, and such of his assistants as are designated by the city manager, shall have the same police powers as a sheriff or police officer in the investigation and prosecution of all offenses involving fires, fire bombings, bombings, attempts or threats to commit such offenses, false alarms relating to such offenses and possession and manufacture of explosive devices, substances and fire bombs.

(b) The police powers granted in this section shall not be exercised by the fire marshal or any assistant until such person has satisfactorily completed a course for fire marshals with police powers, designed by the state office of fire services training in cooperation with the criminal justice services commission, which course shall be approved by the Virginia State Fire Services Commission. In addition, the fire marshal and any assistant shall continue to exercise the powers

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granted by this section only upon satisfactory participation in in-service and advanced courses and programs designed by the office of fire services training in cooperation with the criminal justice services commission, which courses shall be approved by the Virginia State Fire Services Commission.

(Code 1964, § 18-23.2; Ord. No. 635, 10-24-79)

State law references: Similar provisions, Code of Virginia, § 27-34.2:1.

Sec. 14-4. Interference with firemen or fire equipment.

It shall be unlawful for any person in the city to wilfully interfere in any way with any member of the city's fire division or an organized fire department or fire company or with the operation of any piece of fire equipment while such fireman or piece of equipment is operating in response to a fire alarm. A violation of this section shall constitute a Class 1 misdemeanor.

(Code 1964, § 27.1-20; Ord. No. 601, 12-13-78)

Cross references: Penalty for Class 1 misdemeanor, § 1-11.

Sec. 14-5. Impersonating fire division personnel in sale, etc., of fire protective or extinguishing equipment.

It shall be unlawful for any person to fraudulently claim to be, or represent himself as being, an agent or official of the fire division of the city, in the sale, installation, maintenance or recharging, or solicitation of the sale, installation, maintenance or recharging, of any fire protective or extinguishing equipment. A violation of this section shall constitute a Class 1 misdemeanor.

(Code 1964, § 27.1-22; Ord. No. 601, 12-13-78)

Cross references: Penalty for Class 1 misdemeanor, § 1-11.

Secs. 14-6--14-8. Reserved.

Editor's note: Ord. No. 1432, adopted October 25, 2006, repealed §§ 14-6--14-8, which pertained to burning of brush; duty of person leaving open-air fire unattended; and damaging property by fire. See also the Code Comparative Table.

Sec. 14-9. Fire protection service fee.

(a) There is hereby imposed on all property located within the City of Hampton a fire protection service fee which shall be based upon the size of each water meter serving the property in accordance with the following schedule:

TABLE INSET:

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Meter Size (inches)	Monthly Fee
5/8	\$0.80
3/4	0.80
1	1.20
1 1/2	1.60
2	2.40
3	3.20
4	3.20
6	4.00
8	4.00
10	4.00

(b) The fee imposed hereby shall be included in the Newport News Waterworks service charge set forth in section 42-31 of the Newport News City Code and authorized by section 42-32(2) of that code.

(c) The City of Newport News, through its Department of Public Utilities, is hereby authorized to enforce and collect the service fee imposed by this section.

(d) This section shall take effect for all City of Newport News, Department of Public Utilities, billing cycles occurring on and after July 1, 1992.

(Ord. No. 1047, 5-13-92)

Sec. 14-11. Open burning prohibited; exceptions.

(a) Except as otherwise provided in this section, no person shall ignite or maintain, or cause or permit to be ignited or maintained, any open fire on public or private property outside any building. Salvage, demolition operations or disposal of waste materials by burning is prohibited.

(b) Exceptions.

(1) Open fires may be set in the performance of official duties by the fire code official or his designee when necessary for any of the following purposes:

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- a. For the abatement of a fire hazard which can not be abated by other means;
 - b. For training in firefighting or for research in control of fires under supervision of the fire code official or his designee;
 - c. In emergency or other extraordinary circumstances when open burning is determined by the fire code official to be in the public interest.
- (2) Fires may be used for cooking food, provided no smoke violation or other nuisance is created.
- (3) Recreational fires may be set provided that no smoke violation or nuisance is created.
- (4) Open burning shall be prohibited for land clearing operations, except controlled force-air pit burning of brush, leaves and trees from land clearing operations conducted under authority of a permit issued by the fire code official or his designee is permitted; provided that such burning shall be in conformance with procedures approved by the fire code official and the department of environmental quality (air division), and shall be immediately terminated upon revocation of such permit. Compliance with the provisions of this subsection shall not exempt any person from any damages or liability which may result from such open burning, nor exempt any person from adherence to all applicable laws, ordinance and regulations and orders of the fire code official and the state forester.
- (c) Open burning, where permitted by this chapter, shall be constantly monitored until the fire is extinguished. Fire extinguishing equipment shall be available for immediate use.
- (d) The fire code official may prohibit open burning, otherwise lawful, when smoke may cause reduced visibility on any highway, or when emissions or odors may constitute a hazard or nuisance. The fire code official may order the extinguishing by the permit holder or other responsible person, or by the fire department, of any fire which creates such a hazard or nuisance, or if adjacent property is considered to be endangered.

(Ord. No. 1432, 10-25-06)

Sec. 14-12. Fires on beaches prohibited; exception(s).

- (a) Except as otherwise provided in this section it shall be unlawful for any person to set fire to or to procure another to set fire to any wood, brush, logs, leaves, grass, debris or other flammable material at any time on any beach of the city.
- (b) The provisions of this section shall not be applicable to any person, group or organization which has been granted a permit by the fire code official to set a fire on a beach within the city, provided that such fire is set and maintained in compliance with the terms and conditions of such permit.

(Ord. No. 1432, 10-25-06)

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Sec. 14-13. Damaging property by fire.

If any person carelessly, negligently or intentionally sets any woods or marshes on fire, or sets fire to any stubble, brush, straw or any other substance capable of spreading fire on lands, whereby the property of another is damaged or jeopardized, he shall be guilty of a Class 4 misdemeanor and shall be liable for the full amount of all expenses incurred in fighting the fire.

(Ord. No. 1432, 10-25-06)

State law references: Similar provisions, Code of Virginia, § 18.2-88.

Sec. 14-14. Fireworks and pyrotechnic displays prohibited; exceptions.

(a) Except as otherwise provided in this section it shall be unlawful for any person to transport, manufacture, assemble, store, sell, offer or display for sale, or to buy, use, possess, ignite or explode any firecracker, torpedo, sky rocket, or other substance or device that contains any explosive or flammable compound or substance, and is intended or commonly known as fireworks, and which explodes, rises into the air or travels laterally, fires projectiles or discharges sparks into the air.

(b) The provisions of this section shall not be applicable to any organization or group of individuals which has been granted a permit by the fire code official for the public or private display of fireworks or pyrotechnics, provided that such fireworks are stored, handled, transported and used in compliance with the terms and conditions of such permit. The provisions of this section shall not apply to sparklers when used or ignited by an adult or a minor under the supervision of an adult.

(c) The fire code official or any law enforcement officer shall be authorized to seize, take, remove or cause to be removed, at the expense of the owner, all fireworks offered or exposed for display or sale, stored or held in violation of this section.

(d) Before the fire code official issues any permit required by this section the applicant for the permit shall submit evidence of liability insurance for the protection of persons and property from death, bodily injury and damage in an amount not less than one million dollars (\$1,000,000.00) and in a form satisfactory to the city attorney.

(e) Violation of any provision of this section shall constitute a Class 1 misdemeanor.

(Ord. No. 1432, 10-25-06)

Secs. 14-15--14-25. Reserved.

Article II. Fire Prevention Code

Sec. 14-26. Adopted.

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For the purpose of protecting the public health, safety and welfare, there is hereby adopted the 2002 Edition Statewide Fire Prevention Code, as it may from time to time be amended, except such provisions thereof as may be inconsistent with other, more restrictive fire prevention ordinances of the city as permitted by state law. Three (3) copies of such code shall be on file in the office of the clerk of council. Such code is hereby adopted and incorporated as fully as if set out at length herein and the provisions thereof shall apply to and be controlling within the limits of the city.

(Code 1964, § 18-16; Ord. No. 95, § 1; Ord. No. 172; Ord. No. 322; Ord. No. 486; Ord. No. 541, 9-28-77; Ord. No. 606, 1-24-79; Ord. No. 726, 9-8-82; Ord. No. 888, 4-27-88; Ord. No. 1017, 7-10-91; Ord. No. 1197, 9-24-97; Ord. No. 1406, 7-13-05; Ord. No. 1406, 7-13-05)

State law references: Authority of city to adopt fire prevention code by reference, Code of Virginia, § 27-97.

Sec. 14-27. Availability of copies.

Copies of the fire prevention code adopted by this article, are obtainable, during regular business hours, at the office of the clerk of council.

(Ord. No. 95, § 1; Ord. No. 486; Code 1964, § 18-17)

Sec. 14-28. Definitions.

Whenever the following words and phrases are used in the fire prevention code adopted by this article, they shall have the meanings ascribed to them as follows:

(1) Words used in the present tense include the future; the words "shall" or "should" are mandatory and not directory; the word "may" is discretionary.

(2) The terms "fire official," "chief of the fire department" or "bureau of fire prevention" shall mean the fire chief of the city.

(Code 1964, § 18-18; Ord. No. 95, § 2; Ord. No. 486; Ord. No. 888, 4-27-88)

Sec. 14-29. Reserved.

Editor's note: Ord. No. 1198, adopted Sept. 24, 1997, repealed former § 14-29, which pertained to amendments to the 1990 edition of the Statewide Fire Prevention Code, and derived from Ord. Nos. 95, 172, 332, 356, and 486; Ord. No. 655, adopted May 14, 1980; Code 1964, § 18-19; and Ord. No. 888, adopted April 27, 1988.

Sec. 14-30. Reserved.

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Editor's note: Ord. No. 887, adopted April 27, 1988, repealed § 14-30 pertaining to variances, which derived from Ord. No. 95, § 5; Ord. No. 486 and Code 1964, § 18-21.

Sec. 14-31. Appeals.

The board of appeals established by the BOCA Basic Building Code, which is a part of the building code adopted by section 9-26 of this Code, shall hear all appeals that may arise under the fire prevention code adopted by this article. The procedure established by such basic code shall govern such appeals.

(Ord. No. 543, 9-28-77; Code 1964, § 18-22)

Sec. 14-32. Reserved.

Editor's note: Ord. No. 887, adopted April 27, 1988, repealed § 14-32 pertaining to violations, which derived from Ord. No. 486 and Code 1964, § 18-23.

Secs. 14-33--14-45. Reserved.

Article III. Portable Fire Extinguishers

Sec. 14-46. Violations of article.

Unless otherwise specifically provided, a violation of any provision of this article shall constitute a Class 1 misdemeanor.

Cross references: Penalty for Class 1 misdemeanor, § 1-11.

Sec. 14-47. Required.

It shall be unlawful for any person to sell or offer for sale or deliver or have delivered or make otherwise available for use in the city any portable fire extinguisher except those bearing an approved label of the Factory Mutual Laboratories or the Underwriters' Laboratories, Inc.

(Ord. No. 95, § 12; Code 1964, § 18-25)

Sec. 14-48. Standards for construction, installation, maintenance and use.

(a) The standards for construction, installation, maintenance and use of portable fire extinguishers shall be those of and published by the National Fire Protection Association entitled "Standard for Portable Fire Extinguishers," as listed in Appendix A of the 1987 BOCA Basic Fire Prevention Code adopted in Article II of this chapter. It shall be unlawful for any person to install or maintain for use a portable fire extinguisher except in accordance with the above adopted standards.

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(b) Copies of the standards referred to in subsection (a) above are obtainable, during regular business hours, at the office of the clerk of council.

(Ord. No. 634, 10-24-79; Code 1964, §§ 18-26, 18-27; Ord. No. 888, 4-27-88)

Sec. 14-49. Removal of seals or other markings.

(a) It shall be unlawful for any person to remove any seal, tag, label or other essential marking placed on a portable fire extinguisher by the manufacturer or testing laboratories to designate the make, type, use, capacity or contents thereof.

(b) It shall be unlawful for any person to remove, mar or mutilate any tag, seal, stencil or marking placed upon fire protection or extinguishing equipment by the fire chief.

(Ord. No. 95, § 15; Code 1964, § 18-29)

Secs. 14-50--14-65. Reserved.

Article IV. Smoke Detectors

Sec. 14-66. Violations of article.

Unless otherwise specifically provided, a violation of any provision of this article shall constitute a Class 1 misdemeanor.

Cross references: Penalty for Class 1 misdemeanor, § 1-11.

Sec. 14-67. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings ascribed to them by this section:

Existing building: A building constructed to building code requirements in effect prior to February 7, 1976.

Listed: Equipment included in a list published by a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of production of listed equipment and whose listing states either that the equipment meets nationally recognized standards or has been tested and found suitable for use in a specified manner.

Owner: The holder of title in fee simple and any person, group of persons, company, association or corporation in whose name tax bills on the property are submitted. Such word shall also mean any person who, alone or jointly or severally with others:

(1) Shall have legal title to any building or building unit, with or without accompanying actual possession thereof.

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(2) Shall have charge, care or control of any building or building unit as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee, or vendee in possession, assignee of rents, lessee or other person in control of a building, or his duly authorized agents.

Any such person, group of persons, company, association, or corporation shall have joint and several responsibility for compliance with the provisions of this article.

Power supply: A source of electrical power; either A.C. primary power, a battery or a combination of both, complying with the requirements of NFPA-74, as amended.

(Code 1964, § 18-31; Ord. No. 705, 11-18-81; Ord. No. 928, 4-12-89)

Sec. 14-68. Required in certain existing buildings.

It is hereby required that smoke detectors shall be installed by the owners in the following structures or buildings:

- (1) Any building containing one (1) or more dwelling units;
- (2) Any hotel, motel or dormitory regularly used, offered for, or intended to be used to provide overnight sleeping accommodations for one (1) or more persons; and
- (3) Rooming houses regularly used, offered for, or intended to be used to provide overnight sleeping accommodations.

The smoke detectors shall be installed in accordance with this article, with NFPA-74, as amended, and with Section 36-99.5, 1987, Virginia State Fire Prevention Code, "Smoke Detectors for the Deaf and Hearing Impaired."

(Code 1964, § 18-32; Ord. No. 705, 11-18-81; Ord. No. 928, 4-12-89; Ord. No. 985, 11-28-90)

Sec. 14-69. Reserved.

Editor's note: Ord. No. 1469, adopted March 28, 2007, repealed § 14-69, which pertained to permit to install. See also the Code Comparative Table.

Sec. 14-70. Installation standards.

Smoke detectors shall be installed in accordance with NFPA-74, as amended. For use groups R-1, R-2 and R-3, either battery operated or A.C. powered units are acceptable in conformation with the applicable NFPA standards of the National Fire Protection Association.

(Ord. No. 705, 11-18-81; Code 1964, § 18-32; Ord. No. 928, 4-12-89)

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Sec. 14-71. Certificates to be given certain tenants; responsibility for maintenance, repair, etc.

(a) Owners of any unit which is rented or leased and which is required to have smoke detectors by section 14-68 of the City Code, shall at the beginning of each tenancy and at least annually thereafter, furnish each tenant with a certification that all required smoke detectors are present, have been inspected and are in good working order. Except for smoke detectors located in use group R-1 hallways, stairwells and other public or common areas, interim testing, repair and maintenance of smoke detectors in rented or leased units shall be the responsibility of the tenant; provided, however, that the owner shall be obligated to service, repair or replace any malfunctioning smoke detector, within five (5) days of receipt of written notice that such smoke detector is in need of service, repair or replacement. Owners of any hotel, motel, dormitory or rooming house listed in section 14-68 shall, at least annually, inspect, repair or replace smoke detectors and shall keep records of such maintenance.

(b) A copy of all certificates and maintenance records referred to in this section shall be available for inspection by the authority having jurisdiction and shall be maintained for at least two (2) years.

(Code 1964, § 18-32; Ord. No. 705, 11-18-81; Ord. No. 928, 4-12-89)

Secs. 14-72--14-85. Reserved.

Article V. Hazardous Materials

Sec. 14-86. Establishment of revolving account.

(a) There shall be established within the financial records of the city a "Fire Department Hazardous Material (HAZMAT) Revolving Account," within the general fund in which shall be recorded any appropriations made by the city council for hazardous materials incidents.

(b) Any monies recovered by the city pursuant to § 15.1-29.21 of the Code of Virginia as reimbursement for costs expended by the city pursuant to Hazmat activities shall be credited to this account.

(Ord. No. 1081, 5-5-93)

Sec. 14-87. Disposition of funds collected under this article.

All funds collected under the provisions of this article shall be used for hazardous materials emergencies and to recoup costs associated with a response to a hazardous materials emergency.

(Ord. No. 1081, 5-5-93)